

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7851 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHARUCH JILLA ADIVASI SEVA SANGH

Versus

RAMILABEN GANPATBHAI VASAVA AND ANOTHER.

Appearance:

MR KS JHAVERI for Petitioner
MR.KR KOSHTI for appointed by
Court to render free legal aid to Respondent No.1.
MR MD PANDYA for Respondent No. 2

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 16/04/96

ORAL JUDGEMENT

Rule. Mr.Koshti and Mr.M.D.Pandya waive service of the Rule for Respondent Nos. 1 and 2. At the request of the parties Advocates for all the parties the matter is taken up for final hearing today.

Bharuch Jilla Adivasi Seva Sangh which is a trust registered under the Public Trust Act, has filed this Special Civil Application against the Award dated 10.7.1995 passed by the Labour Court, Bharuch in new

reference (LCB) No.858 of 1990 whereby the relief of reinstatement with backwages and continuity of service has been granted to the respondent No.1. The respondent No.1 was working as Sanchalika with the petitioner trust and she had worked for a period of about one year as Sanchalika. She was then replaced by the new incumbent on the ground that she did not possess requisite qualification no order was passed with regard to her continuance or otherwise. She raised industrial dispute and the industrial dispute has been decided vide impugned Award dated 10.7.1995 in her favour. After the notice when the matter came up before this Court on 8.4.1996 during the course of argument it appeared that the matter was likely to be settled between the parties on certain terms and therefore the time was granted.

The respondent No.1 Ramilaben Ganpatbhai Vasava has filed an affidavit dated 16.4.1996 stating therein that during the pendency of the proceedings before the Labour Court and this Court she has received a sum of Rs.150/-p.m. as honorarium for working in Anganwadi of Police Parivar Welfare, Bharuch since September, 1991. It is the common case of the parties that the respondent was appointed as temporary Sanchalika of Balwadi with effect from 22.6.1989 and she was made to cease to work from 15.6.1990 because her appointment as an Administrator (Sanchalika) had not been approved by the District Social Welfare Officer, Bharuch. The case of the present petitioner trust before the Labour Court was that if she had been replaced by new incumbent on the post of Administrator she should have worked as a teacher but she did not work as such. At the same time, it is also not disputed by the petitioner trust that no specific orders were passed with regard to the continuance of the respondent in service as a teacher or otherwise. This situation has given rise to the dispute.

Now with the agreement of both the sides the following consent order is passed :

- (1) The respondent Smt. Ramilaben Ganpatbhai Vasava shall be treated as continuing in service of the petitioner trust as a teacher from 15.6.1990.
- (2) She will be paid wages at par with other teachers from 15.6.1990 till she resumes her duties as a teacher with the petitioner trust in pursuance of the orders which may be now passed by the petitioner trust within a period of one week from the date the copy of this order is made available to the petitioner trust.

(3) While making the payment it will be open for the petitioner trust to adjust the amount earned by the respondent @ Rs.150/- from the Police Parivar Welfare, Bharuch with effect from September, 1991 till April, 1996 and the respondent shall join her duties with the petitioner trust as a teacher on 1.5.1996.

(4) The petitioner trust agrees to pay the entire dues of the respondent after adjusting the amount @ Rs.150/- p.m. as above within a period of six weeks from 1.5.1996.

(5) The continuity of the service of the respondent shall be maintained.

The impugned Award passed by the Labour Court, Bharuch on 10.7.1995 in in new Reference (LCB) No.858 of 1990 shall stand modified in accordance with the agreed terms as above. This Special Civil Application is partly allowed in the terms indicated above and the Rule is made absolute accordingly. No order as to costs.
